THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.26790 OF 2007

DATED: 20-12-2007

BETWEEN

C. Munirajulu,
S/o. Late C. Venkatasubbaiah,
R/o. R.K.V. Puram Village & Post,
Ramachandrapuram Mandal,
Chittoor District.

...PETITIONER

AND

The Revenue Divisional Officer,
Tirupati, Chittoor District and
two others.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

2. Petitioner submits that his father late C. Venkatasubbaiah, a carpenter and a landless poor, was assigned an extent of Ac.3.49 cents of agricultural dry land in Sy.No.569/3 of Kuntrapakam Village, Ramachandrapuram Mandal, Chittoor District vide D.K.T.Patta. No.14/4/77 dated 15.09.1967 and he developed the said land and brought the same under cultivation and he died in 1979. Petitioner further submits that after the death of his father, his elder brother –

C. Vengaiah and himself cultivated the land and after partition the land in question was allotted to his share. He further submits that he has been

cultivating the said land and pattadar passbooks and title deeds were also issued mutating his name in the revenue records.

He further submits that due to drought conditions he could not cultivate the said land in the recent past. While so, the Mandal Revenue Officer issued a notice dated 25.01.2005 stating that the said land was originally assigned in favour of Sri C. Venkatasubbaiah vide DKT patta and subsequently the patta was transferred in favour of the petitioner, but the petitioner failed to bring the said land under cultivation within three years from the date of grant of assignment and violated condition No.2 of the patta; therefore, the petitioner was called upon to submit an explanation as to why the patta shall not be cancelled for violation of the patta.

3. The petitioner filed an explanation stating that his late father brought the said land under cultivation and it was being cultivated for quite a long time, but in the recent past only due to prevailing drought conditions he could not cultivate the said land. The explanation was not appreciated by the MRO and resumption order dated 10.05.2005 has been passed under the Andhra Pradesh Assigned Lands (Prevention of Attrocities) Act, 1977 (for short 'the Act') and the Rules made thereunder holding that the said order is appealable under Section 4-A of the Act before the Revenue Division Officer. Petitioner submits that he filed an appeal before the RDO on 22.06.2005 along with an application for stay. Though the appeal was filed within time the appellate authority failed to consider either the stay application or the appeal itself.

4. Petitioner questions the order of the MRO dated 10.05.2005 as illegal and arbitrary on the ground that the provisions of the Act have no application for violation of the conditions of the D-Form patta as it is not a case of alienation but it is a case of violation of the condition of the patta imposed on the assignee that the said land should be brought under cultivation within three years from the date of grant of patta.

5. The provisions of the Act are applicable in case of transfer/alienation in respect of lands assigned in favour of landless poor but there is no provision under the Act for resumption of the lands for violation of condition of the patta that the land has not been brought under cultivation within three years from the grant of patta. It is not in dispute that the petitioner is not in possession of the said land; more so, the assigned lands are inheritable but not alieanable. Therefore, the impugned resumption order passed under the Act is illegal and unsustainable. Thus, I am of the opinion that as the initial order has been passed under the Act, which is not applicable,
the appellate authority cannot entertain the appeal.

6. Having regard to the facts and circumstances of the case and as the Act do not provide for resumption of assigned lands for violation of the conditions of D-Form patta, the order of the Mandal Revenue Officer dated 10.05.2005 is set aside. However, this order will not preclude the respondents to take appropriate action in accordance with law.

The writ petition is accordingly allowed. There shall be no order as to costs.

_____

V. ESWARAIAH, J

December 20, 2007
DSK